

RECEIVED
SDNY PRO SE OFFICE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2021 APR 26 AM 9:27

David Rombousek

Write the full name of each plaintiff.

No. _____
(To be filled out by Clerk's Office)

-against-

COMPLAINT
(Prisoner)

Trinity Company, Supervisor Harry

Supervisor John Doe.

Sgt Colby & Sgt Gessner of Orange
County Corrections

Do you want a jury trial?
☐ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☐ Other: Health & Nutrition Codes Violated

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

David Rambousek
First Name Middle Initial Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

#2020-00481

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Orange County Jail
Current Place of Detention

#110 Wells Farm Road
Institutional Address

Orange Goshen NY 10924
County, City State Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☒ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1: Trinity inc/company
 First Name Last Name Shield #
Food Corporation
 Current Job Title (or other identifying information)
#110 Wells Farm Rd
 Current Work Address
Orange Goshen NY 10924
 County, City State Zip Code

Defendant 2: Harry ?
 First Name Last Name Shield #
Supervisor for Trinity inc
 Current Job Title (or other identifying information)
#110 Wells Farm Rd
 Current Work Address
Orange Goshen NY 10924
 County, City State Zip Code

Defendant 3: John Doe
 First Name Last Name Shield #
Supervisor for Trinity / employee
 Current Job Title (or other identifying information)
#110 Wells Farm Rd
 Current Work Address
Orange Goshen NY 10924
 County, City State Zip Code

Defendant 4: Srg Colby
 First Name Last Name Shield #
Srg, Grievance Co-Ordinator OCS
 Current Job Title (or other identifying information)
#110 Wells Farm Rd
 Current Work Address
Orange Goshen NY 10924
 County, City State Zip Code

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 5 Nicholas Gessner 138
 First Name Last Name Shield #
Sgt. Orange County Jail
 Current Job Title (or other identifying information)
#110 Wells Farm Rd
 Current Work Address
Orange Goshen NY 10924
 County, City State Zip Code

Defendant 6
 First Name Last Name Shield #
 Current Job Title (or other identifying information)
 Current Work Address
 County, City State Zip Code

Defendant 7
 First Name Last Name Shield #
 Current Job Title (or other identifying information)
 Current Work Address
 County, City State Zip Code

Defendant 8
 First Name Last Name Shield #
 Current Job Title (or other identifying information)
 Current Work Address
 County, City State Zip Code

V. STATEMENT OF CLAIM

Place(s) of occurrence: Orange County Jail Unit D-2

Date(s) of occurrence: January 17 2021

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

- My 1st Amendment right was Violated by Srg Colby as I tried to organize a petition against the food servings by trinity company continuing to serve restricted meals & putting mine & other inmates health & Nutrition in Danger. The petition was denied & no reason was given by Srg Colby.
- Also my health & nutrition codes to safe food has been Violated by Trinity Company & It's (2) Employees/Supervisors for continuing to serve a restricted meal due to unsanitary conditions & Facility orders on numerous accounts (See Attachment)
- Last Ly my 1st Amendment right was violated to a grievance of the said situation at hand which was appalling as the situation was of major & legitimate concern. Srg Cressner Denied me a grievance which clearly violates my 1st amendment right protected by the Constitution. (no attachment)

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

Abrasion to my gums & Chipped tooth & enamel

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

I want all proper relief & monies that the Court may deem fit & proper for all said violations inflicted upon me.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

4-7-21
 Dated
David Rambusek
 First Name Middle Initial Last Name
#110 Wells Farm Rd
 Prison Address
Orange Goshen NY 10924
 County, City State Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: 4-7-21

To whom it may concern:

I am exercising my right to file suit against Sgt Colby of Orange County Jail for allowing Trinity to not get disciplined for their continued neglect to my & all inmates diets & also his neglect to address a multi signed petition to help our concerns to with Violates My 1st Amendment Right to do so. As well as filing suit against Trinity Company & employees Harry & John Doe as they both were on scene & present on the date of Jan 17-2021 when they served a restricted meal of "Navy Beans & Turkey Ham" due to it's multiple complaints on unsanitary conditions as it contained dirt & rocks on numerous occasions. Against Facility orders the (a) said trinity employees served that said meal & in doing so inflicted physical injury on me. I chipped my tooth & tarnished my enamel due to a rock & dirt once again being in the meal. Trinity company & it's (a) said employees broke the rules & Violated Health Code & Nutrition Code with ~~and~~ regard to my health, diet or well being.

(see reports / attachments)
(exhibits 1-4 for insight)

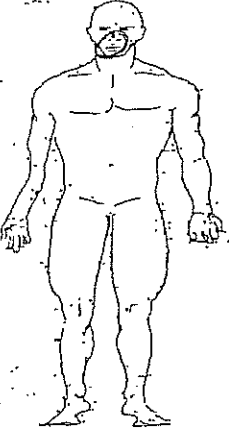
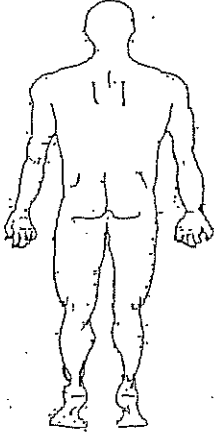
Furthermore the (a) Sgt's neglect on this situation Violates my protected Constitutional Right of the 1st Amendment to with was uncalled for as my diet & health of much importance in their facility.

As well as Trinity & its (a) employees complete disregard to serve a restricted meal was a clear violation.

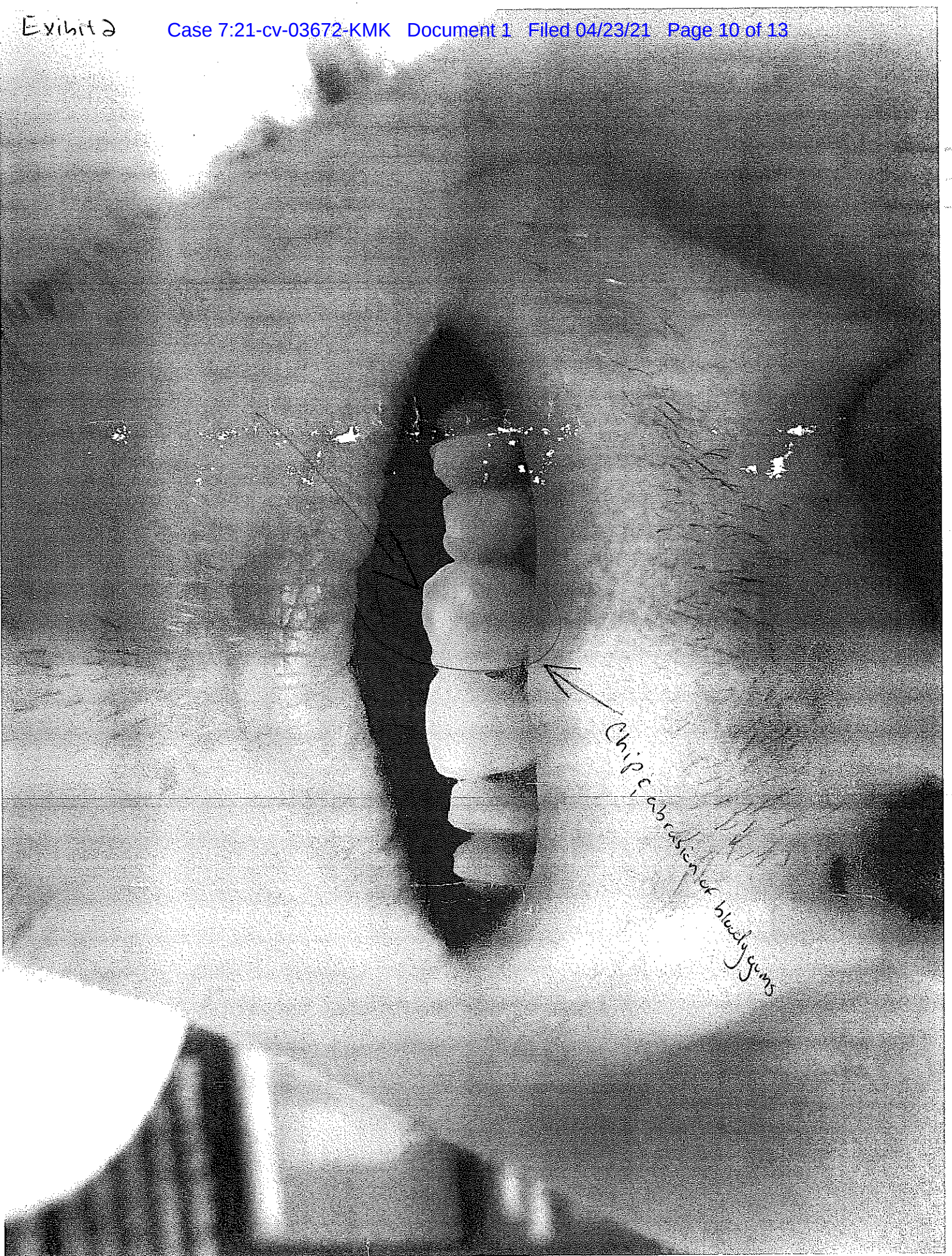
All Acts were unjust & unnecessary by All Defendants

MEDICAL INCIDENT REPORT

ORANGE COUNTY JAIL

PERSON INVOLVED (LAST NAME, FIRST, MIDDLE INITIAL) ROMBOLISEK, DAVID		BOOKING NUMBER 20-00487	SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	AGE 21	DATE OF BIRTH 11/02/1999
DATE OF INCIDENT 01/17/21	TIME OF INCIDENT <input type="checkbox"/> A.M. <input checked="" type="checkbox"/> P.M.	EXACT LOCATION OF INCIDENT Delta 2			
<input checked="" type="checkbox"/> INMATE	PROPERTY INVOLVED (IF YES DESCRIBE) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		WAS PERSON AUTHORIZED TO BE AT THE LOCATION OF THE INCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO		
<input type="checkbox"/> DETAINEE	EQUIPMENT INVOLVED (IF YES DESCRIBE) <input type="checkbox"/> YES <input type="checkbox"/> NO				
<input type="checkbox"/> PRE SEGREGATION	TYPE OF SEGREGATION <input type="checkbox"/> DISCIPLINARY <input type="checkbox"/> ADMINISTRATIVE <input type="checkbox"/> PROTECTIVE CUSTODY <input type="checkbox"/> Paperwork Complete				
<input type="checkbox"/> HOSPITAL RETURN	HOSPITAL PAPERWORK RECEIVED: <input type="checkbox"/> YES <input type="checkbox"/> NO		SPECIAL HOUSING REQUESTED FOR HOSPITAL RETURNING (IF YES DESCRIBE) <input type="checkbox"/> YES <input type="checkbox"/> NO		
DESCRIBE EXACTLY WHAT HAPPENED: WHAT CAUSES WERE, IF INJURED: STATE PART OF BODY INJURED. IF PROPERTY OF EQUIPMENT WAS DAMAGED STATE THE DAMAGE: C/D CHIPPING tooth on "small rock" in food. upper tooth.					
WAS INMATE/DETAINEE INVOLVED SEEN BY A NURSE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		WHEN 01/17/21 @ 1700	WHERE MOD. CAL	NURSE NAME A. DE LA CRUZ	
WAS INMATE/DETAINEE SEEN BY A PHYSICIAN? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		WHEN	WHERE	PHYSICIAN NAME	
WAS FIRST AID ADMINISTERED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		WHEN	WHERE	BY WHDM	
WAS INMATE/DETAINEE INVOLVED TAKEN TO A HOSPITAL? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		WHEN	WHERE	BY WHDM	
INDICATE ON DIAGRAM LOCATION OF INJURY					
		INDICATE TYPE OF INJURY			
		<input type="checkbox"/> LACERATION <input type="checkbox"/> HEMATOMA <input checked="" type="checkbox"/> ABRASION <input type="checkbox"/> BURN <input checked="" type="checkbox"/> NON APPARENT <input type="checkbox"/> OTHER (SPECIFY)			
		CHP			
		ACCIDENT			
		<input type="checkbox"/> FATAL <input checked="" type="checkbox"/> NON-FATAL			
NURSE/PHYSICIAN'S COMMENTS (CHIEF COMPLAINT) Seen by RN					
DATE OF ASSESSMENT 01/17/2021					
IF ASSESSMENT DATE IS NOT THE SAME DATE AS THE INCIDENT STATE REASON					
TITLE AND SIGNATURE OF PERSON PREPARING THE REPORT [Signature]					
OFFICER NAME SIGNATURE AND SHIELD NUMBER Buder 560 - Buder 560					

NOTE: A COPY OF ALL MEDICAL INCIDENT REPORTS WILL BE PROVIDED TO THE FACILITY SHIFT COMMANDER



Officer's Report**Date of Report:** 1/17/2021**Time Report Written:** 1850**Date of Incident:** 1/17/2021**Time Incident Occurred:** 1716**Location of Incident:** Delta 2 Cell 11**Incident:** Inmate Rombousek, David 2020-00481 chipped tooth while eating chow.**Officer Reporting:** Andre Robinson**Shield #** 109

Narrative: Explain fully any action taken by you, any event observed, information received. Set forth names, other officers, inmates, and a detail of the information of what, who, when, where, and how. Be explicit in all information given.

On the above date and time while working my assigned post as the Delta 2 Housing Unit Officer the following occurred. At 1716 hours I was supervising chow service when Inmate Rombousek, David 2020-00481 reported that he had what appeared to be a rock in his chow tray, and had chipped his tooth while eating. I notified Delta Sergeant Nicholas Gessner #138 of what had been reported. I notified Medical of what occurred and that Inmate Rombousek would need to be evaluated by medical staff. At 1844 hours Emergency Response Team Officer Besnik Prelvukaj #138, and ERT Officer Thomas Bruder #309 arrived on the unit to escort Inmate Rombousek to Medical due to him being on a Cuff and Shackle Order. At 1809 hours Inmate Rombousek returned to the unit and was issued a replacement meal. End of Report.

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Reporting Officer Signature: *A. Robinson* 109Date: 1/17/2021Sergeant Signature: *Nicholas Gessner* #138Date: 1/17/2021Shift Commander Signature: *Thomas Bruder*Date: 1/17/2021Administrator or Designee Signature: *[Signature]*Date: 1-18-21

Officer's Report**Date of Report:** January 17, 2021**Time Report Written:** 2003**Date of Incident:** January 17, 2021**Time Incident Occurred:** 1716**Location of Incident:** Delta-2 Housing Unit**Incident:** D2 Rombousek, David (2020-00481) allegedly chipped his tooth eating chow.**Sergeant Reporting:** Nicholas Gessner**Shield #** 138

Narrative: Explain fully any action taken by you, any event observed, information received. Set forth names, other officers, inmates, and a detail of the information of what, who, when, where, and how. Be explicit in all information given.

On the above date and time, I was assigned as the Delta Wing Sergeant. At 1716 hours, Delta-2 Housing Unit Officer Andre Robinson #109 reported that Inmate Rombousek, David (2020-00481) claimed that he had chipped his tooth on a rock that was found in the beans portion of his chow tray. I notified the Emergency Response Team (ERT) Team Leader (TL) that Inmate Rombousek would need to be escorted to medical to be evaluated. Inmate Rombousek is currently an ERT escort/cuff and shackle order per Lieutenant Michael Zappolo. At 1744 hours, ERT Officer Thomas Bruder #560 and ERT Officer Besnik Prelvukaj #138 entered Delta-2 Housing Unit. ERT Officer Bruder placed temporary hand restraints and leg restraints on Inmate Rombousek and ERT staff escorted Inmate Rombousek to medical. At 1750 hours, Inmate Rombousek was evaluated by Registered Nurse (RN) Alpha Dela Cruz who noted on the Medical Incident Report a non-apparent chip on the tooth. RN Dela Cruz authorized Inmate Rombousek to return to Delta-2 Housing Unit without restrictions. At 1800 hours, photographs of Inmate Rombousek's injury was taken by ERT Officer Bruder. Inmate Rombousek was escorted back to Delta-2 Housing Unit at 1806 hours. The escort video for this incident was recorded by ERT Officer Prelvukaj. Still, photographs and the escort video was placed on a disc by ERT Officer Bruder, this incident was 21-0037. Shift Commander Lieutenant Jesse Weed was advised. End of Report

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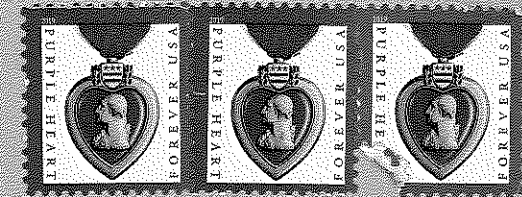
Reporting Officer Signature: _____ Date: _____

Sergeant Signature: Nicholas Gessner #138 Date: 1/17/2021Shift Commander Signature: Jesse Weed #2022 Date: 1/17/2021Administrator or Designee Signature: [Signature] Date: 1-18-21

#110 Wells Farm Rd
Goshen NY 10924
David Ramboise K
2020-00481

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2021 APR 26 AM 9:15

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United State District Court
Southern District of New York
U.S. Courthouse #500 Pearl St
New York NY 10007

USMP3
SDNY

Pro Se ^{scr}

